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HAND CARRY TO THE PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

CUNNINGHAM, et al.

Serial Number: 09/701,395

Filed: June 2, 1999

For: GENES OF CAROTENOID BIOSYNTHESIS AND METABOLISM AND
METHODS OF USE THEREOF

**REQUEST FOR CORRECTION OF PATENT OFFICE RECORDS AND
RECONSIDERATION OF ERRONEOUS HOLDING OF MISSING PARTS**

Commissioner for Patents
Washington, D.C. 20231

September 25, 2001

Sir:

A Third Notification of Missing Requirements (copy attached) was mailed from the U.S. Patent and Trademark Office to the firm of Arent Fox Kintner Plotkin and Kahn, PLLC. on July 11, 2001. A Fourth Notification of Missing Requirements (copy also attached) was mailed on July 25, 2001.

However, contrary to each of the Notifications, a first Response to Notification of Missing Requirements was filed on June 18, 2001 containing the declaration, an assignment document for recording along with the 1 595 form, and a Preliminary Amendment. A second Response to Notification of Missing Requirements was filed on July 2, 2001 containing a Statement under 37 CFR §1.821(c), a Sequence Listing in computer readable form and paper copy. Attached please find a copy of the filing from

June 18, 2001 and July 2, 2001 along with the applicants' attorneys' return-receipt postcard.


In view of the foregoing, the applicants respectfully request that the U.S. Patent and Trademark Office's records be corrected to show that a proper response was timely filed.

Any fees associated with this communication should be waived since the evidence submitted herewith shows that the applicants are in no way at fault, and a timely response was filed.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 01-2300. A duplicate copy of this request is attached.

Should the appropriate official of the U.S. Patent and Trademark Office have any questions, that official is requested to telephone the applicants' undersigned attorney.

Respectfully submitted,
ARENT FOX KINTNER PLOTKIN & KAHN


Richard L. Berman
Attorney for Applicant(s)
Reg. No. 39,107

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Washington, D.C. 20036-5339
Tel: (202) 857-6000

RJB:ccd

Enclosures: Copies of the Notifications of Missing Requirements / postcard receipts / Responses to the Notification of Missing Requirements (as filed on June 18, 2001 and June 2, 2001)



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/701395	CUNNINGHAM	F P108172-0002

ARENT FOX KINTNER PLOTKIN & KAHN
SUITE 600
1050 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036 5339

INTERNATIONAL APPLICATION NO.
PCT/US99/12121

I.A. FILING DATE	PRIORITY DATE
02 JUN 99	02 JUN 98

DATE MAILED:

11 JUL 2001

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☒ an Elected Office (37 CFR 1.495):

- | | |
|--|---|
| <input checked="" type="checkbox"/> U.S. Basic National Fee. | <input type="checkbox"/> Indication of Small Entity Status. |
| <input type="checkbox"/> Copy of the international application. | <input type="checkbox"/> Translation of the international application into English. |
| <input type="checkbox"/> Oath or Declaration of inventors(s). | <input type="checkbox"/> Translation of Article 19 amendments into English. |
| <input type="checkbox"/> Copy of Article 19 amendments. | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Priority Document. | |
| <input checked="" type="checkbox"/> The International Preliminary Examination Report in English and its Annexes, if any. | |
| <input type="checkbox"/> Translation of Annexes to the International Preliminary Examination Report into English. | |

Received

JUL 13 2001

Lamont Hunt

2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee. ☐ Copy of the international application.

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
- ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
- ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of \$_____ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☒ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes **MUST** be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.
7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

- Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation
☐ PTO-875 ☒ PCT/DO/EO/920

Lamont Hunt r

Telephone: 703-305-3686

FORM PCT/DO/EO/905 (March 2001)



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
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09/701395	CUNNINGHAM	F P108172-0002

ARENT FOX KINTNER PLOTKIN & KAHN
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INTERNATIONAL APPLICATION NO.

PCT/US99/12121

I.A. FILING DATE	PRIORITY DATE
------------------	---------------

02 JUN 99

02 JUN 98

DATE MAILED: 11 JUL 2001

**NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE
DISCLOSURES**

Applicant has submitted papers under 35 U.S.C. 371 to enter the national stage in the United States of America. The items indicated below, however, are missing. The period within which to correct the deficiency noted below and avoid abandonment is set forth in the accompanying Notification.

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):

- ☒ The application fails to comply with the requirements of 37 CFR 1.821-1.825.
- ☐ This application does not contain, a "Sequence Listing" as a separate part of the disclosure on paper copy or compact disc, as required by 37 CFR 1.821(c).
- ☐ A copy of the "Sequence Listing" in computer readable format has not been submitted as required by 37 CFR 1.821(e).
- ☐ A copy of the "Sequence Listing" in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."
- ☐ The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
- ☐ The paper copy or compact disc of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).
- ☐ Other: _____

APPLICANT MUST PROVIDE:

- ☒ An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- ☐ An initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification.
- ☐ A statement that the contents of the paper or compact disc and the computer readable form are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

**FOR QUESTIONS REGARDING COMPLIANCE WITH THESE REQUIREMENTS, PLEASE
CALL:**

(703) 308-4216, for Rules interpretation,
(703) 308-4212, for CRF submission help,
(703) 287-0200, for PatentIn software help.

Lamont Hunter

Telephone: 703-305-3686



UNITED STATES PATENT AND TRADEMARK OFFICE

CPI

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
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02 JUN 99

PRIORITY DATE

02 JUN 98

ARENT FOX KINTNER PLOTKIN & KAHN
SUITE 600
1050 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036 5339

DATE MAILED: 25 JUL 2001

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☐ Copy of Article 19 amendments. ☐ Other:
☐ Priority Document.
☒ The International Preliminary Examination Report in English and its Annexes, if any.
☐ Translation of Annexes to the International Preliminary Examination Report into English.

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Arent Fox

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☐ PTO-875 ☒ PCT/DO/EO/920

FORM PCT/DO/EO/905 (March 2001)

Telephone: 703-305-3616

DOCKETED BY [Signature]

DATE [Signature]



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
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U.S. APPLICATION NO.

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(703) 308-4212, for CRF submission help,
(703) 287-0200, for PatentIn software help.

Camomil Hunter

Telephone: 703-308-3686